

## **SCOWT Policy Recommendations 2001**

### **W1 Water Transportation Policy**

(October 14, 1979)

Recommendation: Delete W1 and Proposed new to W1 National Maritime Policy

#### Explanation for recommendation:

The current W1 was formulated 22 years ago. A 1999 report to congress describes and defines the complex nature of the marine transportation as an integral part of the national transportation system and its contribution to national interests. A new policy statement by AASHTO on water transportation policy is in order. The committee is drafting a new statement that will recommend a new national policy.

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### **W2 and W8**

Recommendation: Delete W2 and W8 and substitute the following and renumber as appropriate.

#### Explanation of recommendation:

W2 and W8 both dealt with dredging and disposal

#### Disposal of Dredged Material

Waterways have served as major transportation facilities since the earliest settlement of North America. Billions of dollars have been invested by federal, state, and local governments and private industry to develop harbors, navigation channels, and marine terminals. The water transportation system benefits local, regional, national, and international economies, and is key to maintaining our leading position in the global marketplace. The critical role of ports in world and domestic trade makes it essential that harbors and navigation channels be adequately maintained and improved. Most harbors and channels are not naturally deep enough to accommodate modern vessels and cannot operate effectively without regular maintenance dredging. Both routine maintenance dredging and long-term improvement dredging for port development are hampered by budgetary, administrative, and environmental considerations.

Disposal of dredged material is a major factor in the maintenance or improvement of navigation channels. While most dredged material is clean and does not pose significant environmental risks, public perception tends to consider all dredged material as contaminated. Creative beneficial uses should be made of dredged material when possible and responsible confinement should occur when necessary. Furthermore state and regional variations in environmental regulations lead to an uneven playing field among the nation's ports and waterways and can lead to distortions in the marketplace. Closer cooperation is needed among the various stakeholders to ensure the adequate maintenance of our waterways, protection of the environment; and fiscal responsibility:

- AASHTO urges the U. S. Army Corps of-Engineers to work closely with the U.S. Environmental Protection Agency, state agencies, ports, and waterway users to

establish regional guidelines for the disposal of dredged material based on nationally established scientific criteria. The criteria must provide for a reasonable margin of safety and consider the economics of dredged material disposal.

- AASHTO urges the federal government to continue to educate the public about the economic necessity of dredging and the fact that most dredged material is clean and has potential for beneficial uses such as beach replenishment, construction, habitat creation and other uses. A lack of public awareness about dredged material increases the likelihood that all dredged material is assumed to be contaminated or toxic and requires confinement. Such lack of information will make future dredging more difficult.
- AASHTO recommends the U. S. Army Corps of Engineers continue to share with local sponsors the responsibility and cost for construction of appropriate dredged material disposal areas, including dikes and other required features; and to pursue beneficial uses of dredged material.

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**W3** Deep-Draft User Charges

(July 8, 1982, Revised September, 1982)

Recommendation: Delete W3 in its entirety.

Explanation for recommendation:

Most of the elements of the policy on deep-draft user charges have been implemented through federal legislation. W3 was crafted in the early 80's as the national discussion of user charges was evolving. Construction of navigation channels was historically the responsibility of the Federal government, with the U.S. Army Corps of Engineers constructing specific projects authorized by Congress. In 1986, Federal policy changed as Congress enacted the Harbor Maintenance Tax (HMT) to recover the cost of maintaining the nation's deep-draft navigation channels. The amount of tax paid by the shipper was based on the value of the goods being shipped and the ticket price of passenger vessels. In addition, a cost-share formula was implemented for widening and deepening harbors and channels, with local port sponsors paying a part of the cost and the Federal government still paying a portion from the General Treasury.

In 1998, the U.S. Supreme Court issued a unanimous decision finding the HMT unconstitutional as it applies to exports. Although the HMT on imports was challenged in 1999, this tax was found constitutional by the Court of International Trade. There have been several proposals to replace the HMT. The challenge rests in finding an alternative that does not violate the Constitution, will not injure U.S. exports, and spreads the annual cost of maintenance dredging equally and fairly among deep-draft ports.

The Standing Committee on Water Transportation will review this issue and if appropriate draft a new policy statement on this subject.

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**W4** Shallow-Draft User Charges

Recommendation: Accept revision below.

W4 Shallow Draft User Charges

July 8, 1982, Revised September 1982, Proposed revision 2001)

A cost-effective network of shallow draft-ports and waterways is a vital component of America's transportation system and makes a significant contribution to the Nation's economic, environmental and social well being. Since 1980, the construction and rehabilitation of the inland waterways has been cost shared. Towboats and tugs plying specified waterway segments pay a fuel tax which was authorized by the Inland Waterways Revenue Act of 1978 (PL 95-502) as amended by the Water Resources Development Act of 1986 (PL99-662). The tax took effect on October 1, 1980, at 4 cents per gallon and increased in stages until January 1, 1995, when the fuel tax reached 20 cents per gallon. Proceeds go into the Inland Waterways Trust Fund, which is used to pay one-half of the cost of inland navigation construction, mainly lock-and-dam replacements, and of major rehabilitation. Expenditures for operation and maintenance are financed from the general fund.

Towboats and tugs also pay an additional 4.3 cents per gallon in taxes, which goes into the general fund for "deficit reduction". Legislation to repeal this tax is pending.

AASHTO supports the current method of partial cost recovery for the construction and major rehabilitation of shallow-draft locks and dams and other inland navigation works. There are some 211 lock chambers at 168 lock-and-dam sites on the Nation's system of inland and intra-coastal waterways. Navigation locks are perhaps the most important element of the inland navigation system, and at least 40 percent have exceeded their 50-year life expectancy. Capacity problems associated with aging and obsolete locks affects the ability of the inland waterways system to operate effectively.

To comply with spending ceilings, Congress in recent years has authorized funding for the Army Corps of Engineers at less than optimal levels. As a result, on-going construction has been slowed down and stretched out, adding to overall costs, and needed maintenance has been deferred. Although fuel taxes and interest total about \$120 million a year, only about \$70 million a year is spent in matching funds, resulting in a surplus in the Inland Waterways Trust Fund, as of May 31, 1999, of \$372.4 million.

It is important to maintain a user charge system that will have the least disruptive impact on inland waterway transportation. For this reason, AASHTO believes the following points should be considered.

- Inland and intra-coastal waterways are an important component of our regional, national and international transportation system and vital to global competitiveness, overall economic development and national defense needs of the United States.
- Numerous industries, grain elevators, utilities, ports and terminals, and other enterprises have made substantial investments in waterfront facilities predicated upon the continued availability of low-cost water transportation.
- Operation and maintenance of the nation's shallow draft navigation system are the responsibility of the Federal government and adequate funding is necessary. This funding is used only for in-channel improvements....an area that is open to all and heavily used by both recreational and commercial watercraft. Continued maintenance of the shallow draft system stimulates the tourism/recreational economy and enables competition among commercial users that results in reduced transportation costs.

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**W5** Transfer of Federal Surplus Property to Public Ports:

Recommendation: Delete W5 in its entirety and renumber remaining policies as appropriate.

Explanation for this recommendation:

Policy W5 referenced Senate Bill 134 from the 98<sup>th</sup> Congress to amend the Federal Property and Administrative Services Act of 1949 to facilitate the transfer of real and personal property surplus to public port agencies. SB 134 was not enacted. However, Title 40, Section 484 of the United States Code (as added or amended in January 1996) addresses the issue of transferring surplus military property to public ports. Section 484 allows the Secretary of Defense, acting through the Secretary of Transportation, to transfer to a public port property declared surplus as a result of closure or realignment of a military installation if such property is determined to be needed for the development or operation of the port facility. To qualify for transfer under this section, the surplus property must be located within an area of "serious economic disruption" (other limitations also apply). Since the intent of Senate Bill 134 and the policy statement were addressed through the 1996 amendments to Title 40, the policy statement should be deleted.

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**W6** Development of National Maritime Policy:

Recommendation: delete W6 and include issue in W1.

Explanation for recommendation:

See the explanation at W1.

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**W7** Tax Exempt Bonds for Port and Waterway Development:

(June 30, 1986)

Recommendation: Delete W7 in its entirety

Explanation for recommendation:

Many ports and waterway developments are financed with bonds of all types including tax exempt bonds by eligible public entities. This policy was adopted as the Administration and Congress considered deficit reduction policy in the later 80's. AASHTO came out with strong support of the current policy on tax exempt status. The task force believes that this policy statement should be deleted because the policy and practice are not in danger.

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**W8** Disposal of Dredged Material

Recommendation: Delete W8 and combine with revisions to W2 (see W2 above)

Explanation for recommendation:

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The issue of disposal of dredged material is part of the revised policy on this issue and included in W2 above.

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